

RESOLUTION
of the
BOROUGH OF NEW PROVIDENCE
Resolution No. 2014-345

Council Meeting Date: 10-13-2014

Date Adopted: 10-13-2014

TITLE: RESOLUTION AUTHORIZING AGREEMENT BETWEEN THE
BOROUGH OF NEW PROVIDENCE AND LEXIS NEXUS, 121
CHANLON ROAD, NEW PROVIDENCE, NJ 07974

Councilperson Muñoz submitted the following resolution, which was duly
seconded by Councilperson Madden .

BE IT RESOLVED by the Mayor and Borough Council of the Borough of New
Providence, County of Union and State of New Jersey, that they do hereby approve and
authorize an agreement between the Borough of New Providence and Lexis Nexus,
121 Chanlon Road, New Providence, NJ 07974, in the form attached hereto, and they
do further authorize and direct the Borough Administrator and Borough Clerk to execute
same on behalf of the Borough of New Providence.

APPROVED, this 13th day of October, 2014.

RECORD OF VOTE

	AYE	NAY	ABSENT	NOT VOTING
GALLUCCIO	X			
GENNARO	X			
KAPNER	X			
MADDEN	X			
MUÑOZ	X			
ROBINSON	X			
HERN			TO BREAK COUNCIL TIE VOTE	

I hereby certify that the above resolution was adopted at a meeting of the Borough Council held on the 13th day of October, 2014.

Wendi B. Barry, Borough Clerk

FACILITIES USE AGREEMENT

THIS FACILITIES USE AGREEMENT (this "Agreement") made as of October 8, 2014 (the "Effective Date"), by and between **LexisNexis**, a division of **Reed Elsevier Inc.**, a Massachusetts corporation, with an office at 121 Chanlon Road, New Providence, NJ 07974 ("Lexis"), and **THE BOROUGH OF NEW PROVIDENCE**, a corporate body politic, having offices at 360 Elkwood Avenue, New Providence, New Jersey 07974-1844 ("Borough") (collectively, Lexis and Borough are referred to herein as the "Parties").

RECITALS

WHEREAS, Lexis owns a property located at 121 Chanlon Road, New Providence, NJ 07974 (the "South Property") and such property includes a parking lot, and Lexis also owns a property located at 630 Central Avenue, New Providence, NJ 07974 (the "North Property", and with the South Property, the "Properties") and such property also includes a parking lot;

WHEREAS, the Borough of New Providence, has requested use of the Properties' respective parking lots on Tuesday, November 4, 2014 to provide parking for volunteers in conjunction with the voting event (Voting Event) to be held from 5:30 AM to 9:00 PM;

WHEREAS, Lexis is willing to grant such request on the terms and conditions set forth below:

NOW, THEREFORE, in consideration of the payment of ten dollars (\$10.00) and the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lexis and Borough hereby agree as follows:

1. Permission to Use Parking Facility.

Lexis grants to Borough the right to allow Attendees (as defined below) to use the parking lot containing 355 marked parking spaces located on the South Property and the parking lot containing 358 marked parking spaces located on the North Property (collectively, the "Parking Facility") during the Voting Event. Borough shall make and manage all arrangements for the location and removal of Attendee vehicles from the Parking Facility, Subject to the reasonable approval of Lexis, including without limitation ensuring that all attendee vehicles are removed from the Parking facility within six (6) hours after the conclusion of the Voting Event.

In exchange for the grant of the foregoing rights and allowances, Borough agrees to use the Parking Facility under the following terms and conditions. The parties hereto agree that the Lexis' grant of rights and allowance of such use and Borough's adherence to these terms and conditions shall serve as good and valuable consideration.

2. Permitted Use. Use of the Parking Facility for the Voting Event shall be limited to Attendee parking in the Parking Facility. All Voting Event activities shall be the sole responsibility of Borough, and Borough acknowledges that Lexis shall not provide any personnel or services during the FD Event, including but not limited to electricity, water and restroom facilities.

3. **Permitted Access.** For the Voting Event, a maximum of 713 attendees shall be designated by Borough as attendees with access to the Parking Facility ("Attendees"). Borough shall establish and institute procedures, reasonably acceptable to Lexis, for denying unauthorized access to buildings or areas of the Properties other than the Parking Facility, including but not limited to providing roped or other temporary boundary markers or fencing and reasonable security. No access shall be granted to buildings or areas of the Properties, other than the Parking Facility.

4. **Security: Compliance with Laws.**

(a) **Security/Alcoholic Beverages.** Borough acknowledges that the Borough is solely responsible for providing adequate security and personnel for the Parking Facility during the Voting Event. Borough agrees to provide police patrols of the Parking Facility during the FD Event. Borough shall not provide alcoholic beverages to any party on or about the Properties and shall institute security procedures to prevent the consumption of alcohol on the Properties.

(b) **General.** Each Party shall at all times during the term strictly comply with all applicable laws, ordinances, codes, regulations, standards and judicial and administrative orders (jointly "Applicable Laws" or "Laws") relevant to its duties, obligations and performance under this Agreement.

5. **Insurance.** Borough hereby warrants that it shall have procured the following insurance coverage, naming Lexis as an additional insured and effective at all times during the Voting Event, and shall require that its agents and/or subcontractors maintain commensurate levels of insurance coverage, as applicable: (i) employers' liability insurance of not less than \$2,000,000; and (ii) commercial general liability insurance of not less than \$2,000,000 in the aggregate and \$1,000,000.00 each occurrence for bodily injury, property damage and personal injury. Before the Voting Event, Borough shall provide Lexis a Certificate of Insurance or written commitment from Borough's insurance carrier(s), acceptable to Lexis, documenting the coverage in effect for the Voting Event and specifically documenting coverage for acts or omissions resulting from or otherwise related the provision of alcohol by Borough to third parties and naming Lexis as an additional insured.

6. **Hold Harmless and Indemnification.** Borough agrees to hold harmless and indemnify Lexis and its subsidiaries, affiliates, successors in interest, directors, officers, shareholders and employees, (collectively, the "Indemnified Parties") against any and all claims, liabilities, reasonable costs or expenses, including reasonable attorney's fees, arising out of, or resulting from, the use and occupancy of the Parking Facility for Voting Event parking or the breach of this Agreement, including but not limited to, any act or omission of Borough relating to the real or personal property of Lexis, or any act or omission of Borough's invitees, contractors, agents and/or employees, and Borough shall be responsible for all reasonable expenses, including reasonable attorney's fees incurred by any Indemnified Party in responding to, defending, settling or satisfying any judgment resulting from any claim, suit or action arising, in any manner, out of the use and occupancy of the Parking Facility for Voting Event parking. The obligations of this Section shall survive termination of this Agreement.

7. **Damages.** Borough shall be liable for any damages, harm or injury to the Properties, or to any other real or personal property of Lexis situated on or about the Properties and caused by the acts or omissions of Borough, its invitees, contractors, agents, and/or employees in connection with the use and occupancy of the Parking Facility for Voting Event

parking, excluding normal wear and tear and any damages from the negligence, willful or criminal misconduct or actions otherwise taken in bad faith by any Indemnified Party. Borough shall deliver to Lexis the Parking Facility in as good condition and repair as the same shall be delivered to Borough at the beginning of the Voting Event. If Borough fails to do so after reasonable written demand to Borough therefor, Lexis may make appropriate reasonable repairs and Borough shall reimburse Lexis for the actual cost incurred in connection with such repairs upon receipt of Lexis' invoice requesting payment of same. The obligations of this Section shall survive termination of this Agreement.

8. Term. The term of this Agreement shall commence on the Effective Date hereof and, unless terminated as provided herein, shall continue until 6:00 AM on November 5, 2013.

9. Default and Termination. Upon any default by Borough on any of the terms and conditions of this Agreement, Lexis shall have the right, without prior notice, to immediately terminate this Agreement, to take immediate possession of the Parking Facility, and/or take any such other actions as may be allowed by law or equity. Either Party may terminate this Agreement for any reason upon thirty (30) days written notice to the other Party.

10. Power and Authority. Borough and Lexis each warrant that (i) each has full power and authority to enter into and perform this Agreement, (ii) the transactions contemplated hereby have been duly and validly authorized by all necessary company action and do not require the consent or authorization of any other Party, (iii) each has the ability to provide the services and perform as called for hereunder, (iv) upon the execution and delivery of this Agreement, it will be a valid and binding obligation of such Party in accordance with its terms, and (v) each has not made, nor will make, any agreement or commitment which would prevent or interfere in any way with the full performance of the obligations hereunder or the full enjoyment of the other Party hereunder.

11. Miscellaneous.

(a) **Notices.** All notices and other communications given hereunder shall be in writing. Notices shall be effective when delivered, if delivered personally. Otherwise, they shall be effective when sent to the parties at the addresses, as follows: (i) on the business day delivered (or the next business day following delivery if not delivered on a business day) if sent by a local or long distance courier, or (ii) three days after mailing if mailed by registered or certified U.S. mail, postage prepaid and return receipt requested.

If to Lexis:

Reed Elsevier, Inc.
Global Real Estate & Corp Services
121 Chanlon Road
New Providence, NJ 07974
Attention: Christine Geitner
Territory Manager

If to Borough:

The Borough of New Providence
360 Elkwood Avenue
New Providence, New Jersey 07974-1844
Attn: Wendi B. Barry, Borough Clerk

With a copy to:

Reed Elsevier Inc.
125 Park Avenue, 23rd Floor
New York, New York 10017

Attn: Julie A. Goldweitz, Esq.
General Counsel - Procurement,
Technology & Real Estate

Either Party may change the address or number to which notices are to be delivered to it by giving the other Party notice of the change in the manner set forth above.

(b) Assignment. No assignment or transfer by a Party of its rights and obligations under this Agreement shall be made by merger or other operation of law or otherwise except with the prior written consent of the other Party. This Agreement is binding upon the parties and their successors and assigns and inures to the benefit of the Parties and their permitted successors and assigns.

(c) Severability. Any determination by any court of competent jurisdiction of the invalidity of any provision of this Agreement that is not essential for accomplishing its purposes shall not affect the validity of any other provision of this Agreement, which shall remain in full force and effect and which shall be construed as to be valid under applicable law.

(d) Controlling Law; Integration; Amendment; Non-Reliance; Waiver.

(i) This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of New Jersey, without reference to its conflicts of law principles.

(ii) This Agreement and the other agreements contemplated by this Agreement supersede all prior negotiations, agreements and understandings between the Parties as to the subject matter thereof, constitute the entire agreement between the Parties as to the subject matter thereof, and may not be altered or amended except in a writing signed by the Party against whom enforcement is sought. Each Party acknowledges that in entering into this Agreement it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement.

(iii) The failure of any Party at any time or times to require performance of any provision of this Agreement shall in no manner affect the right to enforce the same; and no waiver by any Party of any provision (or of a breach of any provision) of this Agreement, whether by conduct or otherwise, in any one of more instances shall be deemed or construed either as a further or continuing waiver of any such provision or breach, or as a waiver of any other provision (or of a breach of any other provision) of this Agreement.

(e) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement or its terms to produce or account for more than one of such counterparts.

(f) Nature of Relationship. The relationship of each of the Parties hereto is that of licensor and licensee, and nothing herein shall create any association, joint venture, partnership or other relationship of any kind between the Parties, and each Party agrees not to contract any obligations in the name of the other, use the monetary credit of the other in conducting any activities under this Agreement, or represent that any Party is in the business of providing the products and/or services provided by the other Party.

IN WITNESS WHEREOF, the Parties have set their hand and seal as of the date first above written.

Reed Elsevier Inc.

By: _____
Name: _____
Title: _____
Date: _____, 2014

The Borough of New Providence

By: _____
Name: Douglas R. Marvin
Title: Borough Administrator
Date: June 2, 2014

Attest: _____
Wendi B. Barry, Borough Clerk
Date: June 2, 2014